

## STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

April 8, 2003

PDE

**MEMORANDUM** 

TO: PDEA Project Managers

FROM: Greg Thorpe, PhD, Manage

SUBJECT:

COORDINATION WITH THE EASTERN BAND OF THE CHEROKEE

INDIANS FOR TIP PROJECTS

The Eastern Band of the Cherokee Indians (EBCI) has asked that they be included in the review of new project information for 27 counties located in the western portion of North Carolina. This request was made in order to allow the EBCI an early opportunity to decide if a formal request to become a consulting party on any given project as detailed in Section 106 regulations, CFR 800.2(a)(4) and 800.2(c) will be made. This request would only reflect consulting party designation for NCDOT TIP projects *not* involving EBCI tribal lands as the Section 106 regulations allow for and designate the Tribal Historic Preservation Officer to assume the functions of the State Historic Preservation Officer (SHPO) for such projects. Recognizing the unique federal government to tribal government relationship that exists regarding federally recognized tribes, both FHWA and the EBCI have agreed to have the NCDOT provide project information and coordinate on behalf of FHWA per CFR 800.2(a)(3). For ongoing projects, the Office of Human Environment Archaeology and Historic Architecture units have been forwarding cultural resource information on a project by project basis depending on resources identified by either the EBCI or NCDOT staff.

The Historic Preservation Specialist for Cultural Resources of the EBCI, Mrs. Lee Clauss, has reviewed the Draft TIP for the types of NCDOT projects they are interested in receiving to make a decision on seeking consultant party status. These include all TIP projects requiring either the completion of an Environmental Assessment or Environmental Impact Statement NEPA documents as well as Categorical Exclusion projects with proposed new location alternatives. Project managers will send a version of the template letter along with the normal project scoping attachments to the attention of Mrs. Clauss. Copies of the letters to Mrs. Clauss are to be carbon copied to both the Historic Architecture and Archaeology units. The EBCI will respond to the project

manager by letter or email. Should consulting party status under Section 106 regulations be requested by the EBCI, then cultural resource technical reports including both architectural and archaeological surveys will be provided to the EBCI by the Office of Human Environment. Draft environmental documents will be provided to the EBCI by the project managers. Section 106 consultation request letters for Categorical Exclusion projects with no new or minimal Right of Way including on site bridge replacements and widening projects should not be forwarded to the EBCI.

In the event of historic properties as defined in CFR Part 800 being identified with a projects Area of Potential Effects (APE) that may be of religious or cultural significance to the EBCI, the Office of Human Environment will forward this information to the EBCI for purposes of consultation. Should the EBCI wish to enter the Section 106 process as a consulting party after reviewing this information, they will notify the NCDOT PDEA project manager. Copies of the EBCI letter are to be forwarded to both the Archaeology and Historic Architecture units.

## Attachments

CC: Mr. Rob Ayers, FHWA

Mrs. Lee Clauss, EBCI

Mr. Roger Sheats

Mrs. Janet D'Ignazio

Mr. Carl Goode, P.E.

Mr. Phil Harris, P.E.

## Counties Considered by the EBCI to be Aboriginal Territory

Alleghany

Ashe

Avery

Buncombe

Burke

Caldwell

Catawba

Cherokee

Clay

Cleveland

Gaston

Graham

Haywood

Henderson

Jackson

Lincoln

Macon

Madison

McDowell

Mitchell

Polk

Rutherford

Swain

Transylvania

Watauga

Wilkes

Yancey

## **Project Information Mailing Address:**

Attention: Lee Clauss

Cultural Resources/THPO

Eastern Band of Cherokee Indians

P.O. Box 455

Cherokee, NC 28719